

MONTANA LEGISLATIVE HISTORY

Chapter 18 19 91

Bill H 43 S _____ Original bill & history ✓ c

H. Committee on Judiciary

Hearing Date(s) Jan 10 ✓ c

_____ c

_____ c

_____ c

Date Out Jan 11 ✓ c

S. Committee on Judiciary

Hearing Date(s) Jan 24 ✓ c

Jan 25 ✓ c

_____ c

_____ c

Jan 25 ✓ c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

HOUSE FINAL STATUS

HB 45

HB 41 INTRODUCED BY FAGG
VOLUNTARY CAMPAIGN SPENDING LIMITS FOR
SENATE AND HOUSE CANDIDATES

12/29 INTRODUCED
12/29 REFERRED TO STATE ADMINISTRATION
1/07 FIRST READING
1/23 HEARING
1/23 TABLED IN COMMITTEE

HB 42 INTRODUCED BY COBB
DISCRETIONARY STATEMENT OF INTENT FOR BILL GRANTING
RULEMAKING AUTHORITY

12/29 INTRODUCED
12/29 REFERRED TO JUDICIARY
1/07 FIRST READING
1/10 HEARING
1/11 COMMITTEE REPORT—BILL PASSED 57 39
1/15 2ND READING PASSED 45 54
1/17 3RD READING FAILED

HB 43 INTRODUCED BY COBB
CLARIFY GRANDPARENT VISITATION RIGHTS
FOR CHILDREN IN FOSTER CARE

12/29 INTRODUCED
12/29 REFERRED TO JUDICIARY
1/07 FIRST READING
1/10 HEARING
1/11 COMMITTEE REPORT—BILL PASSED AS AMENDED 97 1
1/15 2ND READING PASSED 100 0
1/17 3RD READING PASSED

1/18 TRANSMITTED TO SENATE
1/18 REFERRED TO JUDICIARY
1/18 FIRST READING
1/24 HEARING
1/25 COMMITTEE REPORT—BILL CONCURRED AS AMENDED 48 0
1/28 2ND READING CONCURRED 48 0
1/29 3RD READING CONCURRED

1/31 RETURNED TO HOUSE WITH AMENDMENTS 96 0
2/01 2ND READING AMENDMENTS CONCURRED 98 0
2/06 3RD READING AMENDMENTS CONCURRED
2/06 SIGNED BY SPEAKER
2/06 SIGNED BY PRESIDENT
2/06 TRANSMITTED TO GOVERNOR
2/11 SIGNED BY GOVERNOR
CHAPTER NUMBER 18

EFFECTIVE DATE: 10/01/91

HB 44 INTRODUCED BY COBB
REPEAL JULY 1990 WORK COMP STATE FUND RATE INCREASES
AND REQUIRE REFUNDS

12/29 INTRODUCED
12/29 REFERRED TO LABOR & EMPLOYMENT RELATIONS
12/31 FISCAL NOTE REQUESTED
1/07 FIRST READING
1/09 FISCAL NOTE RECEIVED
1/11 FISCAL NOTE PRINTED
1/24 HEARING
2/07 TABLED IN COMMITTEE

HB 45 INTRODUCED BY PECK
CRITERIA FOR ACCEPTANCE AND EXPENDITURE

HOUSE BILL NO. 43
INTRODUCED BY COBB

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING DISTRICT COURTS TO GRANT VISITATION RIGHTS TO THE GRANDPARENTS OF YOUTH IN NEED OF CARE OR SUPERVISION, DELINQUENT YOUTH, AND YOUTH WHOSE PARENTS' PARENTAL RIGHTS HAVE BEEN TERMINATED."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Grandparent visitation rights

for certain youth. (1) The district court may grant to the grandparent of a child reasonable visitation rights as provided in this section.

(2) Reasonable visitation rights may be granted to a grandparent of:

(a) a youth for whom disposition is made under 41-3-406;

(b) a youth placed in a youth care facility, as defined in 41-3-1102, by an order of the youth court; or

(c) a youth for whom the parent-child legal relationship has been terminated pursuant to Title 41, chapter 3, part 6.

(3) Proceedings for the granting of visitation rights under this section, including the requirements for pleadings, findings, timing of a petition, appointment of an

attorney, and exceptions, are governed by 40-9-101 and 40-9-102.

NEW SECTION. Section 2. Codification instruction.

[Section 1] is intended to be codified as an integral part of Title 41, chapter 3, part 1, and the provisions of Title 41, chapter 3, apply to [section 1].

-End-

every session being written up as mandatory statements of intent that have no legal authority. Why put in the statements of intent when they aren't really needed. We want to use the word "may" instead of "shall" in the bill. To have the rule interpreted properly, put it right in the statute as you are writing the bill and clarify how the rule is interpreted. EXHIBIT 1 & 2

Proponents Testimony:

Roger Tippy, Helena, stated if a statement of intent were discretionary it would have more impact on the way the rule making is handled should the bill be signed into law.

Opponents Testimony: None

Closing by Sponsor:

REP. COBB stated that the Legislative Council has tried to write last minute statements of intent that have no legal authority. If a legal claim is filed against the state for doing wrong in the rule making, we can put it in the statute saying what can and cannot be done. This would give exact rules to be followed. Most look at the statute first then the statement of intent. As the bill is now, we are asking agencies to write their own statements of intent. By not mandating statements of intent for every bill, we save time.

Questions by Committee:

REP. MEASURE, asked REP. COBB what prevents the agencies from researching the legislature for the statement of intent? REP. COBB stated some agencies keep them forever but most do not pay any attention to them. The only place you can find a statement of intent is at an agency that kept a bill the session laws.

REP. WHALEN asked REP. COBB what is the purpose of making legislative intent permissive to all bills? Rep. Cobb stated to make room for delegation of authority for anyone from an agency that makes up their own rules unless something specific is put in the statute. REP. WHALEN then asked what happens to these statements of intent after they have been developed? REP. COBB said they are kept with the legislative history. You could get them if you were a lawyer looking for a statement of intent.

HEARING ON HOUSE BILL 43
AUTH. GRANDPARENT VISITATION RIGHTS FOR CHILDREN IN FOSTER CARE

Presentation and Opening Statement by Sponsor:

REP. COBB, HD 42, stated this bill would authorize the district court to grant visitation to grandparents of children in foster

care or when the Department of Family Services has custody of the children. This would allow grandparents to petition the court to allow them the right to visit their grandchild. Grandparents currently have the right to petition the court for visitation rights only in cases of dissolutions or divorces. We expanded it to include foster care. We took the same bill and put in the old grandparent visitation law and made it clear as to the expanded rights for grandparents wanting to visit their grandchildren in foster care. He gave the committee a copy of his proposed amendments. EXHIBIT 3

Proponents Testimony:

Jim Smith, Montana Residential Child Care Association, stated that child care agencies feel the removal of the child from the home is traumatic and part of the treatment designed for the children includes visits from members of the family. From the treatment standpoint, we would like to see the grandparents able to visit the children.

Opponents Testimony: None

Questions From Committee Members:

REP. BOHARSKI asked REP. COBB if it was his intent to eliminate these rights to the grandparents in the original bill? REP. COBB stated they didn't want to change the visitation rights if the Foster Care thought the child might later be adopted. It now clearly states, under foster care, the grandparent do have the same rights as they do under dissolution of marriage or divorce. The adoption will be left as is in the original bill.

Closing by Sponsor:

REP. COBB stated he did speak with the Department of Family Services and they support HB #43.

EXECUTIVE ACTION ON HOUSE BILL 42

Motion: REP. LEE MOVED HB 42 DO PASS.

Discussion:

REP. BROWN asked how we deal with agencies that don't listen and do what they want. He stated they should spend some time thinking about how we will deal with this.

REP. TOOLE stated it probably is a good idea to be discrete about how often statements of intent are used. We need to have statements of intent directed to these agencies.

REP. WHALEN, asked John MacMaster if there is a statement of intent on a bill, what is the delegation of authority to a state agency? How will the administrative code keep an eye on them? Mr. MacMaster stated the administrative code reviews every rule and check to see if there is a draft rule

in accordance. They then check each rule to be sure there is a statute to implement to the rule or if any provision of the rule conflicts with the statute itself. Usually the administrative code doesn't even look to see if there was a statement of intent. If we want to give some direction to the state agencies we put in statutes and to make sure they follow it we should definitely put in statutes.

REP. BROOKE, stated the committee is only looking at the practical nature when it's made and with consideration to the Legislative Staff the minutes are recorded and put into record. Statements of intent have some historic value for researchers to give us when we are all no longer here to explain those statements of intent. This will give them some explanation of what we are about. As one who values that perspective, I tend to vote against it.

REP. BOHARSKI stated REP. COBB is limiting statements of intent. We are actually going to clear up this process. Statements of intent don't do us any good and if we are to limit them it would save us time.

Votes: Motion carried.

EXECUTIVE ACTION ON HB #43

Motion/Vote: REP. TOOLE moved to amend HB 43. Motion carried.

Motion/Vote: REP. TOOLE MOVED HB 43 DO PASS AS AMENDED. Motion carried.

EXECUTIVE ACTION ON HB #36

Discussion: CHAIRMAN STRIZICH asked REP. BROWN if he wanted to hear the history report of HB #36 he requested from John MacMaster, at this time. REP. BROWN said he would.

JOHN MACMASTERS, stated he had a page of notes regarding the background of HB #36, EXHIBIT 4, which were reviewed by the committee.

Motion/Vote: REP. BOHARSKI MOVED TO RECONSIDER HB 36. Motion carried.

Discussion:

REP. BOHARSKI asked John MacMaster to hand out amendments he drafted for HB#36. EXHIBIT 5. Looking at the research John has done regarding the history of the bill, it appears there was a reason for enacting some of these statutes such as the licensing and bonding portion of the bill. What seems to be arbitrary is

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 1-10-91

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	/		
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/		
REP. DAVE BROWN	/		
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE	/		
REP. LINDA NELSON	/		
REP. JIM RICE	/		
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN	/		
REP. DIANA WYATT	/		
REP. BILL STRIZICH, CHAIRMAN	/		

STANDING COMMITTEE REPORT

January 11, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Judiciary report that House Bill 43 (first reading copy -- white) do pass as amended.

Signed: Bill Strizich, Chairman

And, that such amendments read:

1. Title, lines 4 through 7.

Following: "AN ACT"

Strike: lines 4 through 7 in their entirety

Insert: "TO CLARIFY THE EXTENT OF A GRANDPARENT'S RIGHT TO VISIT GRANDCHILDREN; TO PROVIDE FOR JOINDER OF THE DEPARTMENT OF FAMILY SERVICES IN A PROCEEDING TO ESTABLISH VISITATION RIGHTS; AND AMENDING SECTION 40-9-102, MCA."

2. Pages 1 and 2.

Strike: everything following the enacting clause

Insert: "Section 1. Section 40-9-102, MCA, is amended to read:

"40-9-102. Grandparent visitation rights. (1) Except as provided in subsection ~~(5)~~ (6), the district court may grant to a grandparent of a child reasonable visitation rights, including but not limited to visitation rights regarding a child who is the subject of, or as to whom a disposition has been made during, an administrative or court proceeding under Title 41 or this title.

(2) Visitation rights granted under this section may be granted only upon a finding by the court, after a hearing, that the visitation would be in the best interest of the child.

(3) If the department of family services has become involved with the child under any law of this state, it must be joined as a party under Rule 19(a), Montana Rules of Civil Procedure.

~~(3)~~ (4) No person may petition the court under this section more often than once every 2 years unless there has been a significant change in the circumstances of the child; the child's parent, guardian, or custodian; or the child's grandparent.

~~(4)~~ (5) The court may appoint an attorney to represent the interests of a child with respect to visitation when such interests are not adequately represented by the parties to the proceeding.

~~(5)~~ (6) This section does not apply if the child has been adopted by a person other than a stepparent or a grandparent. Visitation rights granted under this section terminate upon the

January 11, 1991
Page 2 of 2

adoption of the child by a person other than a stepparent or a
grandparent.""

EXHIBIT 3
DATE 1-10-91
HB 43

AMENDMENTS TO
HOUSE BILL NO. 43

Introduced by Cobb

1. Amend Title, page 1, line 4.
Following: " 'AN ACT"
Strike: the remainder of the Title.
Insert: "CLARIFYING VISITATION RIGHTS OF GRANDPARENTS;
REQUIRING NOTICE TO THE DEPARTMENT OF FAMILY SERVICES;
AND AMENDING SECTION 40-9-102, MCA.
2. Strike everything after the enacting clause and insert:

Section 1. Section 40-9-102, MCA, is amended to read:

"40-9-102. Grandparent visitation rights. (1)
Except as provided in subsection ~~(5)~~ (6), the district
court may grant to a grandparent of a child reasonable
visitation rights: including, but not limited to,
visitation rights regarding a child involved in, or as
to which a disposition has been made, during an
administrative or court proceeding under this title or
Title 41.

(2) Visitation rights granted under this section
may be granted only upon a finding by the court, after
a hearing, that the visitation would be in the best
interest of the child.

(3) If the department of family services has
become involved with the child under any law of this
state it must be joined as a party under Rule 19(a),
Montana Rules of Civil Procedure

~~(3)~~ (4) No person may petition the court under
this section more often than once every 2 years unless
there has been a significant change in the circumstances
of the child; the child's parent, guardian, or
custodian; or the child's grandparent.

~~(4)~~ (5) The court may appoint an attorney to
represent the interests of a child with respect to
visitation when such interests are not adequately
represented by the parties to the proceeding.

~~(5)~~ (6) This section does not apply if the child
has been adopted by a person other than a stepparent of
a grandparent. Visitation rights granted under this
section terminate upon the adoption of the child by a
person other than a stepparent or a grandparent.

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Pinsoneault, on January 24, 1991, at
10:00 a.m.

ROLL CALL

Members Present:

Dick Pinsoneault, Chairman (D)
Bill Yellowtail, Vice Chairman (D)
Robert Brown (R)
Bruce Crippen (R)
Steve Doherty (D)
Lorents Grosfield (R)
Mike Halligan (D)
John Harp (R)
Joseph Mazurek (D)
David Rye (R)
Paul Svrcek (D)
Thomas Towe (D)

Members Excused: none

Staff Present: Valencia Lane (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion
are paraphrased and condensed.

Announcements/Discussion:

HEARING ON HOUSE BILL 43

Presentation and Opening Statement by Sponsor:

Representative John Cobb, District 42, said HB 43 clarifies grandparent visitation rights to children in foster care or other custody, but does not affect adoption. He explained that on page 2, lines 3-6, states the Department of Family Services (DFS) must be joined as a party to court action. Representative Cobb said DFS wants to be notified in order to be part of the court action and found this language acceptable.

Proponents' Testimony:

There were no proponents of HB 43.

Opponents' Testimony:

There were no opponents of HB 43.

Questions From Committee Members:

Senator Mazurek said the amendment made in subsection 1 at the top of page 2, seems to be contemplating a pending action of some sort with regard to a child. He asked if it could be referenced that DFS be included under Title 41, or if language could say "if proceeding commenced under Title 41, DFS would be a part". Representative Cobb replied that would be much easier.

Chairman Pinsoneault asked if there were any input from DFS. Representative Cobb replied that DFS helped to draft the bill, and that he would take it back to them for discussion.

Senator Towe asked what Title 41 covers. Representative Cobb replied it covers foster care, temporary custody, and related actions.

Senator Towe asked what brought HB 43 about. Representative Cobb replied there has been a case in Great Falls where a problem with a grandfather's visitation rights to a grandchild has been going on for years and needs to be clarified.

Senator Halligan asked why the sponsor did not go into Title 41 and make sure grandparents are indeed interested parties. Representative Cobb replied that DFS felt it better that grandparents be included where they are in the bill rather than under Title 41.

Closing by Sponsor:

Representative Cobb made no closing comments.

HEARING ON SENATE BILL 145

Presentation and Opening Statement by Sponsor:

Senator Bob Brown, District 2, told the Committee gambling was generally prohibited from 1890 to 1972 in Article 3, Section 9 of the Montana Constitution. He said the bill would make it necessary for the people only to expand gambling in Montana.

Senator Brown explained the expansion of gambling began with the 1974 act. He stated that, following the 1972 Constitutional Convention, there was so much gambling legislation introduced in 1973 that the Select Interim Committee on Gambling was formed. He said that committee conducted public hearings regarding Constitutional intent, and it was found that people basically wanted those games legalized that had been generally accepted such as bingo, raffles, and card games. Senator Brown said these games were enacted in 1974.

ROLL CALL

SENATE JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 24 Jan

NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsonneault	✓		
Sen. Yellowtail	✓		
Sen. Brown	✓		
Sen. Crippen	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Halligan	✓		
Sen. Harp	✓		
Sen. Mazurek	✓		
Sen. Rye	✓		
Sen. Svrcek	✓		
Sen. Towe	✓		

Each day attach to minutes.

EXECUTIVE ACTION ON SENATE RESOLUTION 2

Motion:

Senator Towe made a motion that SR 2 DO PASS.

Discussion:

There was no discussion.

Amendments, Discussion, and Votes:

There were none.

Recommendation and Vote:

The motion carried unanimously, Senators Mazurek and Grosfield leaving proxy votes.

EXECUTIVE ACTION ON HOUSE BILL 43

Motion:

Discussion:

Chairman Pinsoneault told the Committee that Representative Cobb and Senator Mazurek are in agreement on the proposed amendment.

Valencia Lane explained that the amendment deletes the new subsection 3 and adds a new sentence on page 1, line 23 (Exhibit #8). She said she spoke with the attorney for the Department of Family Services who concurred with the amendments, as well as grandparent visitation rights.

Senator Towe asked if special proceedings were necessary in district court.

Amendments, Discussion, and Votes:

Senator Crippen made a motion that the amendments to HB 43 be approved. The motion carried unanimously.

Recommendation and Vote:

Senator Svrcek made a motion that HB 43 BE CONCURRED IN AS AMENDED. The motion carried unanimously, Senators Grosfield and Mazurek leaving proxy votes.

EXECUTIVE ACTION ON SENATE BILL 87

Motion:

Senator Brown made a motion that the amendments prepared by Valencia Lane be approved.

Discussion:

Valencia Lane explained that the amendment was, essentially, the substitute bill of Representative Rice which was canceled earlier in the Session.

Amendments, Discussion, and Votes:

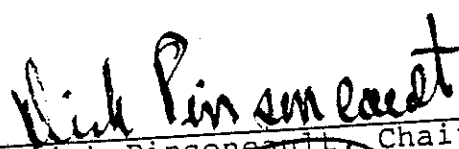
Senator Brown's motion to amend SB 87 carried unanimously.

Recommendation and Vote:

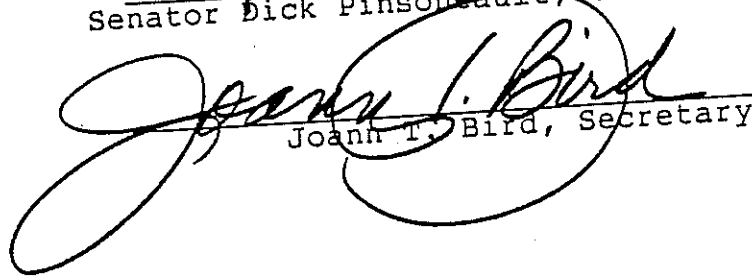
Senator Halligan made a motion that SB 87 DO PASS AS AMENDED. The motion carried unanimously.

ADJOURNMENT

Adjournment At: 12:00 noon



Senator Dick Pinsoneault, Chairman



Joann T. Bird, Secretary

DP/jtb

ROLL CALL

SENATE JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1999

Date 25 Jan 91

NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsoneault	✓		
Sen. Yellowtail	✓		
Sen. Brown	✓		
Sen. Crippen	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Halligan	✓		
Sen. Harp	✓		
Sen. Mazurek	✓		
Sen. Rye	✓		
Sen. Svrcek	✓		
Sen. Towe	✓		

Each day attach to minutes.



MONTANA STATE SENATE

Jan 24, 1990

Senators Yellowtail —

As I will be absent from tomorrow's Judiciary Committee meeting because of a parcel presentation that I am involved in, I hereby offer these "proxy" votes on the three bills to have executive action tomorrow:

HB 43 - Cobb - Yes, with minor drafting amendments only.

SB 87 - Brown - Yes on amended version if no further amendments.

SB 125 - Brown - Yes if no amendments.

Sen Lorenz for all

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 25, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 43 (third reading copy -- blue), respectfully report that House Bill No. 43 be amended and as so amended be concurred in:

1. Title, line 9

Strike: "JOINDER OF"

Insert: "NOTICE, IN CERTAIN CASES, TO"

2. Page 1, line 18.

Strike: "(5)"

Insert: "(5)"

3. Page 1, line 23.

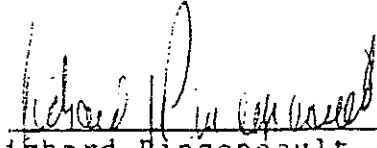
Following: "."

Insert: "The department of family services must be given notice of a petition for grandparent visitation regarding a child who is the subject of, or as to whom a disposition has been made during, an administrative or court proceeding under Title 41 or this title."

4. Page 2, lines 3 through 6.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

Signed: 

Richard Binsonneault, Chairman

121 125-71
And. Coord.

SP 1-25 1:10
Sec. of Senate

EXHIBIT #6
25 Jan 91
HB 43

Amendments to House Bill No. 43
Third Reading Copy (Blue)

Requested by Senator Mazurek
For the Committee on Judiciary

Prepared by Valencia Lane
January 24, 1991

1. Title, line 9.

Strike: "JOINDER OF"

Insert: "NOTICE, IN CERTAIN CASES, TO"

2. Page 1, line 18.

Strike: "(6)"

Insert: "(5)"

3. Page 1, line 23.

Following: "."

Insert: "The department of family services must be given notice
of a petition for grandparent visitation regarding a child
who is the subject of, or as to whom a disposition has been
made during, an administrative or court proceeding under
Title 41 or this title."

4. Page 2, lines 3 through 6.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

25 Jan
HB 43

Amendments to House Bill No. 43
Third Reading Copy (Blue)

Requested by Senator Mazurek
For the Committee on Judiciary

Prepared by Valencia Lane
January 24, 1991

1. Title, line 9.
Strike: "JOINDER OF"
Insert: "NOTICE, IN CERTAIN CASES, TO"
2. Page 1, line 18.
Strike: "(6)"
Insert: "(5)"
3. Page 1, line 23.
Following: "."
Insert: "The department of family services must be given notice of a petition for grandparent visitation regarding a child who is the subject of, or as to whom a disposition has been made during, an administrative or court proceeding under Title 41 or this title."
4. Page 2, lines 3 through 6.
Strike: subsection (3) in its entirety
Renumber: subsequent subsections

1 HOUSE BILL NO. 43

2 INTRODUCED BY COBB

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING--DISTRICT
5 COURTS--TO--GRANT--VISITATION--RIGHTS--TO--THE--GRANDPARENTS--OF
6 YOUTH--IN--NEED--OF--CARE--OR--SUPERVISION,--DELINQUENT--YOUTH,--AND
7 YOUTH--WHOSE--PARENTS'--PARENTAL--RIGHTS--HAVE--BEEN--TERMINATED;"
8 TO CLARIFY THE EXTENT OF A GRANDPARENT'S RIGHT TO VISIT
9 NOTICE, IN CERTAIN CASES, TO
10 GRANDCHILDREN; TO PROVIDE FOR JOINDER OF THE DEPARTMENT OF
11 FAMILY SERVICES IN A PROCEEDING TO ESTABLISH VISITATION
12 RIGHTS; AND AMENDING SECTION 40-9-102, MCA."

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 (Refer to Introduced Bill)

15 Strike everything after the enacting clause and insert:

16 Section 1. Section 40-9-102, MCA, is amended to read:

17 "40-9-102. Grandparent visitation rights. (1) Except as
18 provided in subsection (5), ⁽⁵⁾ the district court may grant
19 to a grandparent of a child reasonable visitation rights,
20 including but not limited to visitation rights regarding a
21 child who is the subject of, or as to whom a disposition has
22 been made during, an administrative or court proceeding
23 under Title 41 or this title."

24 (2) Visitation rights granted under this section may be
25 granted only upon a finding by the court, after a hearing,

*The department of family service must be given
notice of a petition for
grandparent visitation regarding a child who is the
subject of, or as to whom, disposition has been made during*

1 that the visitation would be in the best interest of the
2 child.

3 (1) If the department of family services has become
4 involved with the child under any law of this state, it must
5 be joined as a party under Rule 19(a), Montana Rules of
6 Civil Procedure.

7 (3)(4) No person may petition the court under this
8 section more often than once every 2 years unless there has
9 been a significant change in the circumstances of the child;
10 the child's parent, guardian, or custodian; or the child's
11 grandparent.

12 (4)(5) The court may appoint an attorney to represent
13 the interests of a child with respect to visitation when
14 such interests are not adequately represented by the parties
15 to the proceeding.

16 (5)(6) This section does not apply if the child has
17 been adopted by a person other than a stepparent or a
18 grandparent. Visitation rights granted under this section
19 terminate upon the adoption of the child by a person other
20 than a stepparent or a grandparent."

-End-

THIRD READING